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7  
8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2009-55

12 KATHLEEN FRANCES PETERSEN  
823 Brookhaven Drive  
Brookings, OR 97415

**A C C U S A T I O N**

13 Registered Nurse License No. 282327

14 Respondent.

15  
16 Complainant alleges:

17 PARTIES

18 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation  
19 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,  
20 Department of Consumer Affairs.

21 2. On or about August 31, 1977, the Board of Registered Nursing issued  
22 Registered Nurse License Number 282327 to Kathleen Frances Petersen (Respondent). The  
23 Registered Nurse License was in full force and effect at all times relevant to the charges brought  
24 herein and will expire on July 31, 2009, unless renewed.

25 JURISDICTION

26 3. This Accusation is brought before the Board of Registered Nursing  
27 (Board), Department of Consumer Affairs, under the authority of the following laws. All section  
28 references are to the Business and Professions Code (Code) unless otherwise indicated.

1                   4.       Section 2750 of the Code provides, in pertinent part, that the Board may  
2 discipline any licensee, including a licensee holding a temporary or an inactive license, for any  
3 reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4                   5.       Section 2764 of the Code provides, in pertinent part, that the expiration of  
5 a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding  
6 against the licensee or to render a decision imposing discipline on the license.

7                                   STATUTORY PROVISIONS

8                   6.       Section 2761 of the Code provides, in pertinent part, that the Board may  
9 take disciplinary action against a certified or licensed nurse for any of the following:

10                           (a) Unprofessional conduct; and/or

11                           (f) Conviction of a felony or of any offense substantially related to the  
12 qualifications, functions, and duties of a registered nurse, in which event the record of the  
13 conviction shall be conclusive evidence thereof.

14                   7.       California Code of Regulations, title 16, section 1444 provides that a  
15 conviction or act shall be considered substantially related to the qualifications, functions or duties  
16 of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a  
17 registered nurse to practice in a manner consistent with the public health, safety, or welfare. It  
18 further provides that substantially related convictions or acts shall include but not be limited to:

19                           (c) Theft, dishonesty, fraud, or deceit.

20                   8.       Section 2762 of the Code provides, in pertinent part, that in addition to  
21 other acts constituting unprofessional conduct, it is unprofessional conduct for a nurse to:

22                           (a) Obtain or possess in violation of law, or prescribe, or except as directed by a  
23 licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish  
24 or administer to another, any controlled substance or any dangerous drug or dangerous device.

25                           (b) Use any controlled substance or any dangerous drug or dangerous device, or  
26 alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any  
27 other person, or the public or to the extent that such use impairs his or her ability to conduct with  
28 safety to the public the practice authorized by his or her license.

1 (c) Be convicted of a criminal offense involving the prescription, consumption, or  
2 self-administration of any of the substances described in subdivisions (a) and (b) of this section,  
3 or possession of, or falsification of a record pertaining to, the substances described in subdivision  
4 (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

5 9. Section 490 of the Code provides, in pertinent part, that the Board may  
6 suspend or revoke a license on the ground that the licensee has been convicted of a crime  
7 substantially related to the qualifications, functions, or duties of the nursing profession.

8 10. Section 125.3 of the Code provides, in pertinent part, that the Board may  
9 request the administrative law judge to direct a licensee found to have committed a violation of  
10 the licensing act to pay a sum not to exceed reasonable costs of investigation and enforcement.

#### 11 FIRST CAUSE FOR DISCIPLINE

##### 12 (Conviction of Substantially Related Crime)

13 11. Respondent is subject to disciplinary action under section 2761(f) and/or  
14 section 490 of the Code, by reference to California Code of Regulations, title 16, section 1444, in  
15 that on or about May 19, 2008, in a criminal case titled *People v. Kathleen Frances Petersen*,  
16 Case No. CRTR-08-3144 in Del Norte County Superior Court, Respondent was convicted of a  
17 crime substantially related to the practice of nursing, pursuant to her plea of guilty for violating  
18 Vehicle Code section 23152, subdivision (a) (Driving Under the Influence of Alcohol and/or  
19 Drugs), a misdemeanor. The conviction was entered in the Superior Court as follows:

20 a. On or about April 2, 2008, Respondent was arrested by the California  
21 Highway Patrol pursuant to breath tests showing a Blood Alcohol Content of 0.20% or 0.21%.  
22 The charges of arrest were under Vehicle Code section 23152, subdivision (a) (Driving Under the  
23 Influence of Alcohol and/or Drugs), Vehicle Code section 23152, subdivision (b) (Driving With  
24 a Blood Alcohol Content at 0.08% or Above), as well as Health and Safety Code section 11377,  
25 subdivision (a) (Unlawful Possession of Controlled Substance) and Health and Safety Code  
26 section 11379, subdivision (a) (Unlawful Transport of Controlled Substance), relating to the  
27 discovery in Respondent's vehicle of approximately twenty (20) tablets of **Phentermine HCl**  
28 (also known as "Phen-Phen"), a controlled substance sometimes used as a diet drug.

1           b.       On or about April 9, 2008, Respondent was charged by criminal complaint  
2 with three misdemeanor counts: (1) Vehicle Code section 23152, subdivision (a) (Driving under  
3 the Influence of Alcohol or Drugs); (2) Vehicle Code section 23152, subdivision (b) (Driving  
4 With a Blood Alcohol Content at 0.08% or Above), with a special allegation for excessive blood  
5 alcohol content in excess of 0.15% pursuant to Vehicle Code section 23578; and (3) Health and  
6 Safety Code section 11377, subdivision (a) (Unlawful Possession of Controlled Substance).

7           c.       On or about May 19, 2008, Respondent pleaded guilty to Count One, for  
8 misdemeanor violation of Vehicle Code section 23152, subdivision (a). The remaining counts  
9 were dismissed pursuant to the plea. On or about May 19, 2008, imposition of criminal sentence  
10 on Respondent was suspended in favor of a period of informal probation of three (3) years, on  
11 terms and conditions including 48 hours in county jail, a First Offender alcohol program, fine(s)  
12 totaling \$1,570.00 to be paid within 30 days, and testing upon demand by probation or police.

13                               SECOND CAUSE FOR DISCIPLINE

14                               (Unprofessional Conduct - Dangerous Use of Alcohol)

15           12.       Respondent is subject to disciplinary action under section 2761(a) and/or  
16 section 2762(b) of the Code, in that the conduct and circumstances described in paragraph 11  
17 constitute use of alcohol to an extent or in a manner dangerous or injurious to herself, any other  
18 person, or the public, and is therefore unprofessional conduct for a registered nurse.

19                               THIRD CAUSE FOR DISCIPLINE

20                               (Unprofessional Conduct - Conviction of Crime Involving Alcohol)

21           13.       Respondent is subject to disciplinary action under section 2761(a) and/or  
22 section 2762(c) of the Code, in that paragraph 11 describes conviction of a criminal offense  
23 involving consumption or self-administration of alcohol, a substance described in subdivisions  
24 (a) and (b) of section 2762, which is deemed unprofessional conduct for a registered nurse.

25                               FOURTH CAUSE FOR DISCIPLINE

26                               (Conviction of Substantially Related Crime)

27           14.       Respondent is subject to disciplinary action under section 2761(f) and/or  
28 section 490 of the Code, by reference to California Code of Regulations, title 16, section 1444, in

1 that on or about July 16, 2007, in a criminal case titled *People of the State of Oregon v. Kathleen*  
2 *Frances Petersen*, Case No. 07CR0530 in the Curry County Courthouse in Gold Beach, Oregon,  
3 Respondent was convicted of a crime substantially related to the practice of nursing, pursuant to  
4 her plea of guilty for violating Oregon Revised Statutes section 164.043 (Theft, Third Degree), a  
5 Class C misdemeanor. The conviction was entered in the Curry County Courthouse as follows:

6 a. On or about June 2, 2007, Respondent was apprehended by police in or  
7 near Brookings, Oregon, for shoplifting/theft of items valued at \$28.15 from a Chetco Pharmacy;

8 b. On or about June 7, 2007, Respondent was charged by information with  
9 one count of Theft in the Third Degree (ORS 164.043), for theft valued less than \$50.00;

10 c. On or about July 16, 2007, Respondent pleaded guilty to the charge, and  
11 was sentenced to a fine of \$500.00 payable to the Court Clerk.

12 PRAYER

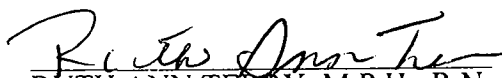
13 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
14 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

15 A. Revoking or suspending Registered Nurse License Number 282327, issued  
16 to Kathleen Frances Petersen (Respondent).

17 B. Ordering Respondent to pay the Board reasonable costs of investigation  
18 and enforcement of this case, pursuant to Business and Professions Code section 125.3;

19 C. Taking such other and further action as is deemed necessary and proper.

20 DATED: 9/8/08

21   
22 RUTH ANN TERRY, M.P.H., R.N.  
23 Executive Officer  
24 Board of Registered Nursing  
25 Department of Consumer Affairs  
26 State of California  
27 Complainant